

## Internal Revenue Service, Treasury

## § 1.40-1

37(e). The couple allocates \$1,600 of the \$3,750 referred to in section 37(e)(6) to W and \$2,150 to H. Subject to the limitation of section 37(c)(2) and paragraph (b) of § 1.37-1, their credit for the elderly is \$315, computed as follows:

Credit base of H:			
Amount allocated to H under section 37(e)(6) .....	\$2,150		
Reductions required by section 37(e)(5):			
Social Security payments .....	\$1,400		
One-half of excess of earnings over \$1,200 .....	50	1,450	
Amount determined under section 37(e)(5) .....		700	
Retirement income .....		6,000	
Credit base of H .....		700	
Credit base of W:			
Amount allocated to W under section 37(e)(6) .....	\$1,600		
Reduction required by section 37(e)(5)(B):			
One-half of excess of earnings over \$1,200 .....	\$200		
Amount determined under section 37(e)(5) .....		1,400	
Retirement income .....		1,400	
Credit base of W .....		1,400	
Computation of credit:			
Credit base of H .....		700	
Credit base of W .....		1,400	
Combined credit base .....		2,100	
Credit for the elderly (15 pct. of \$2,100) .....			315

*Example 3.* (a) Assume the same facts as in example (2) of this paragraph, except that H and W live apart at all times during 1978 and file separate returns. Under these circumstances, H and W must give effect to the applicable community property law in determining their credits under section 37(e). Thus, each spouse must take into account one-half of each item of income.

(b) Subject to the limitation of section 37(c)(2) and paragraph (b) of § 1.37-1, H's credit for the elderly is \$157.50, computed as follows:

Maximum retirement income level under section 37(e)(7) .....	\$1,875		
Reductions required by section 37(e)(5):			
Social security payments .....	\$700		
One-half of excess of earnings over \$1,200 (taking into account one-half of combined earnings of \$2,900) .....	125	825	
Amount determined under section 37(e)(5) .....		1,050	
Retirement income .....		3,700	
Credit of H (15 pct. of \$1,050) .....			157.50

(c) Subject to the limitation of section 37(c)(2) and paragraph (b) of § 1.37-1, W's credit for the elderly is computed as follows:

Maximum retirement income level under section 37(e)(7) .....	\$1,875		
Reductions required by section 37(e)(5):			
Social security payments .....	\$700		
One-half of excess of earnings over \$1,200 .....	125	825	
Amount determined under section 37(e)(5) .....		1,050	
Retirement income (limited to W's share of public pension) .....		700	
Credit of W (15 pct. of \$700) .....			105

[T.D. 7743, 45 FR 84050, Dec. 22, 1980]

### § 1.38-1 Investment in certain depreciable property.

Regulations under sections 46 through 50 are prescribed under the authority granted the Secretary by section 38(b) to prescribe regulations as may be necessary to carry out the purposes of section 38 and subpart B, part IV, subchapter A, chapter 1 of the Code.

[44 FR 20417, Apr. 5, 1979]

### § 1.40-1 Questions and answers relating to the meaning of the term "qualified mixture" in section 40(b)(1).

*Q-1.* What is a "qualified mixture" within the meaning of section 40(b)(1)?

*A-1.* A "qualified mixture" is a mixture of alcohol and gasoline or of alcohol and special fuel which (1) is sold by the taxpayer producing such mixture to any person for use as a fuel, or (2) is used as a fuel by the taxpayer producing such mixture.

*Q-2.* Must alcohol be present in a product in order for that product to be considered a mixture of alcohol and either gasoline or a special fuel?

*A-2.* No. A product is considered to be a mixture of alcohol and gasoline or of alcohol and a special fuel if the product is derived from alcohol and either gasoline or a special fuel even if the alcohol is chemically transformed in producing the product so that the alcohol is no longer present as a separate chemical in the final product, provided that there is no significant loss in the energy content of the alcohol. Thus, a